DOCUMENT RESUME

ED 348 803 EC 301 424

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|---|---|
| AUTHOR | Winget, Pat, Ed.; Kirk, Joyce, Ed. |
| TITLE | Surrogate Parents in California Special Education: An Overview. |
| INSTITUTION | California State Univ., Sacramento. |
| SPONS AGENCY | California State Dept. of Education. Sacramento. Office of Special Education. |
| PUB DATE | 91 |
| NOTE | 59p.; For the Resource Notebook, see EC 301 425. Developed by the Surrogate Parent Working Committee. A product of the Resources in Special Education project. |
| AVAILABLE FROM | Resources in Special Education, 650 Howe Ave., Suite 300, Sacramento, CA 95825 ($10). |
| PUB TYPE | Guides - Non-Classroom Use (055) |
| EDRS PRICE | MF01 Plus Postage. PC Not Available from EDRS. |
| DESCRIPTORS | Agency Cooperation; *Child Advocacy; *Compliance (Legal); *Disabilities; Due Process; Educational Legislation; Elementary Secondary Education; Federal Legislation; *Parent Role; School Districts; Special Education; State Legislation; State Programs; State Standards; Volunteers |
| IDENTIFIERS | *California; *Surrogate Parents |

ABSTRACT

This manual has been developed to assist local California education agencies, placing agencies, and providers in the implementation of the revised requirements for the appointment of surrogate parents for special education pupils, ages 0 through 21. Also included is an explanation of state and federal mandates for parent involvement, educational entitlements, and procedural safeguards for individualized educational programs. The major considerations for making surrogate parent appointments include: (1) identification of children in need of a surrogate parent; (2) the appointment process, responsibilities and requirements of surrogate parents, and the recruitment of surrogate parents; (3) training of surrogate parents; and (4) the responsibilities and roles of agencies in this program. Briefly considered are monitoring and complaint procedures and some special situations. Much of the document consists of the following appendixes: statute code references; sample forms (e.g., notification, surrogate training parent certification, appointment/acceptance of surrogate parent); an all county letter; a listing of special education local plan areas and administrators; a listing of court appointed special advocates; and charts. (DB)

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# SURROGATE PARENTS IN CALIFORNIA SPECIAL EDUCATION

## AN OVERVIEW

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# Surrogate Parents in California Special Education

## An Overview

Developed by
Surrogate Parent Working Committee

for
the Special Education Division
California Department of Education

Resources in Special Education
Sacramento, California
1991

**SURROGATE PARENTS IN CALIFORNIA SPECIAL EDUCATION: AN OVERVIEW**

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This document was edited and prepared by Resources in Special Education (RiSE), a cooperative project of the California Department of Education, Special Education Division, with California State University, Sacramento.

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# *Contents*


Foreword ..... v
Preface ..... vii
Acknowledgments ..... ix

Introduction ..... 1

Overview of Surrogate Parent Mandate ..... 3

Responsibilities and Requirements of Surrogate Parents ..... 7

When to Appoint Surrogate Parents ..... 9

The Appointment Process ..... 11

The Roles of Public Noneducational Agencies, Foster Care Providers ..... 19

Monitoring and Complaint Procedures ..... 23

Special Situations: Questions and Answers ..... 25

Appendices ..... 27
- A. Statute Code References ..... 29
- B. Sample Forms ..... 35
- C. Department of Social Services All-County Letter 91-25 ..... 43
- D. Special Education Local Plan Areas (SELPA) and Administrators ..... 46
- E. Court Appointed Special Advocates ..... 54

Charts:
- Conserved Adult Individual with Disability ..... 55
- Surrogate Parent Appointment Program Guidelines ..... 56

# *Foreword*

California is currently facing an unprecedented increase in the numbers of children placed out of their natural home. Nearly 80,000 children were being served in community care licensed out-of-home situations according to an April 1990 report by the California State Department of Social Services. About 16,000, or 20%, of children residing in Licensed Children's Institutions (LCI) or Foster Family Homes (FFH) required special education services (California Department of Education special education pupil count report, April 1990). The proportion of children requiring special education who are served by social services agencies in out-of-home settings, as determined by court, shows consistent increases over the past five years. Seventy percent of the children in foster care were removed from their homes as a result of endangerment due to parental neglect, incapacity, or absence. In addition, there are children who are placed in out-of-home settings by Regional Centers for the Developmentally Disabled.

Parent participation in the development of an individualized education program, even in cases where the parent is not present, is a requirement for special education programs and services under federal and state law. However, when a child is separated from the parents, parent participation requirements are difficult to implement. The increase in the number of children in out-of-home placement has impacted the delivery of special education services dramatically. It is unclear how many of these children will require surrogate parents.

The concept of a surrogate parent program arose from concerns about the gap in procedural safeguards for the educational rights of pupils with special needs when they are without parental representation and advocacy. Federal law requires assurances from states receiving federal funds for special education that surrogate parents will be appointed for individuals with disabilities who are without parental representation in special education procedures. The 1975 enactment of Education of the Handicapped Act (EHA-B) also known as PL 94-142, now amended and renamed Individuals with Disabilities Education Act (IDEA) created the basic need for this document.

The absence of parental representation requires immediate response from special education administrators. When the child is identified as an individual with a disability under established categories of handicapping conditions, federal and state law guarantees the child a free, appropriate public education as well as the coordination of necessary services.

Timelines for the development and implementation of the pupil's individualized education program (IEP), informed parent consent for assessment, parent participation in the pupil's IEP planning, and parental access to due process are all highly regulated in order to ensure the protection of the child's civil rights in education. The child's right to parental representation in the decision-making process for determining the appropriate special education needs must be ensured.

This overview of the surrogate parent appointment process will assist local educational agencies in effectively implementing procedures for parental representation.

Shirley Thornton, Ed.D.
Deputy Superintendent
California Department of Education

# *Preface*

The role of the Special Education Division, California Department of Education, has been to support local education agencies in developing surrogate parent appointment programs by providing program guidelines and associated training materials.

The Department has taken an interagency approach in the development of this document by supporting corresponding revisions in related laws and regulations of all agencies serving special education pupils who require a surrogate parent. These activities were undertaken to fulfill compliance mandated by the Individuals with Disabilities Education Act (IDEA), CFR 300.514, and Chapter 182, California Statutes 1990 (AB 1528).

The Advisory Commission on Special Education sponsored necessary legislative changes outlined by AB 1528 (Farr) and held three public input sessions on several surrogate parent appointment issues. Then, the Commission's Policy Review Committee formed a subcommittee of representatives of interested organizations to develop specific legislative provisions and to identify the scope of changes in state laws necessary. This subcommittee, the Surrogate Parent Content Preparation Group, was chaired by then Commissioner Marjorie Bourret of Scotts Valley, California. AB 1528 successfully passed through the California Legislature and was signed into law by the governor in July 1990.

The Department invited field and social service agency representatives to participate in a California Department of Education Surrogate Parent Working Committee to develop this document for assistance in implementation of surrogate parent programs. In completing its work, the committee reviewed and considered all relevant California statutes and regulations that affect the appropriate appointment of surrogate parents for special education pupils under the jurisdiction of a juvenile court.

In 1991, further legislative clarification was sought regarding the ability of local education agency appointed surrogate parents to authorize related services provided by health and mental health agencies as part of a pupil's IEP. AB1060 became Chapter 223, Statutes of 1991, with its provisions effective January 1, 1992.

Patrick Campbell
Assistant Superintendent
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# *Acknowledgments*


**Surrogate Parent Advisory Committee and Working Committee**

Many caring and tenacious people are responsible for the development of *Surrogate Parents in California Special Education: An Overview.* This publication is a direct product of their professional integrity and deep personal commitment in serving children in need.

At the invitation of Patrick Campbell, Director of Special Education, the working committee contributed their writing ability and continual interactive reviews of early drafts of this document. They also contributed their time without compensation. This enabled the California Department of Education to respond to the following requirement in California Statutes 1990, Chapter 182, Section 8: On or before July 1, 1991, the Superintendent of Public Instruction, in consultation with local educational agencies, and others deemed appropriate by the superintendent including agencies and organizations knowledgeable of children's disabilities, shall develop policies, procedures, and a basic training package for surrogate parents.

The field representative committee was comprised of educational administrators, social agency administrators, a representative of private foster care providers, a foster parent, and a parent of a child with disabilities to provide input on the development of this document.

Earlier leadership which secured the enabling legislation for surrogate parent appointment process deserves equal appreciation. Those individuals are recognized on the following page.

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# *Introduction*

A federal review in 1985 by the United States Office of Special Education Programs (OSEP) found that California practices relating to surrogate parent representation for special education pupils was not in compliance with authorizing federal laws and implementing federal regulations.

The federal requirements of the Education of the Handicapped Act of 1975 (renamed the Individuals with Disabilities Education Act of 1990) established the rights of pupils, ages birth through 21 years, to a free appropriate public education. California's noncompliance focused on conflicts of interest. During that time, social workers, probation officers, caseworkers, and other placement workers (including group home operators) were signing for educational decisions in the individual educational program (IEP) on the pupil's behalf in the absence of a parent.

To bring California into compliance with the federal rulings, state legislation (AB 1528) was enacted in 1990, which set more specific direction for appointment of a "surrogate parent." A surrogate parent is defined as an adult appointed by the local education agency to represent pupils, ages 0 through 21, in all decisions by an IEP team relating to the pupil receiving a free appropriate public education. AB 1528, effective January 1, 1991, is reprinted in Appendix A.

The federal government requires assurances that this new ruling is being instituted on a statewide basis.

This manual, *Surrogate Parents in California Special Education: An Overview,* has been developed to assist local education agencies, placing agencies, and providers in the implementation of the revised requirements for the appointment of surrogate parents for special education pupils. Explanation of state and federal mandates for parent involvement, educational entitlements, and procedural safeguards for individualized educational programs are included in this text.

Also provided are the major considerations under state and federal law which should be applied by local education agencies when surrogate parent appointments are made: (1) identification of children in need of a surrogate parent; (2) the appointment process, responsibilities and requirements of surrogate parents, the recruitment of surrogate parents; (3) training of surrogate parents; and (4) the responsibilities and roles of agencies in this program. In addition to this overview, training modules have been developed to support the surrogate parent appointment process.

The goal of these materials is to develop a common body of information for local policy makers, administrators from both educational and social service agencies, and coordinators of local training programs who will implement or participate in surrogate parent programs.

This overview also provides references to statute code, sample forms, reference documents containing other agency guidelines, and charts of the suggested appointment process.

The information in this document is not binding on local education agencies or other public agencies, but is provided to give guidelines for exemplary surrogate parent programs. Compliance with these guidelines is not mandatory except for the statutes, regulations, and court decisions which are referenced in the text.

*A surrogate parent is an adult appointed by the local education agency to represent a pupil whenever the pupil does not have parental representation and has been referred for, or is currently being served in, special education.*

# *Overview of Surrogate Parent Mandate*

This section provides an overview of the federal and state legal mandate and describes surrogate parents and other individuals who have legal authority to act in the child's behalf in the special education process.

## Current Federal and State Law

Federal law requires state, intermediate, and local educational agencies to establish and maintain procedures for assignment of a surrogate parent whenever the whereabouts of the parents or guardian of the child are not known or available or the child is a ward of the state. The surrogate parent must not be an employee of any public agency involved in the education or care of the child [20 USC § 1415(b)(1)(B); 34 CFR § 300.514].

Federal implementing regulations provide legal definition of a "surrogate parent" and stipulate the requirements that must be met when a public agency selects and assigns a surrogate parent for a child with no identifiable parent or to a child who is a ward of the state.

State law provides that "surrogate parent" regulations be adopted pursuant to Public Law 94-142. A surrogate parent may represent an individual with exceptional needs in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individual education program, and in other matters relating to the provision of a free appropriate education to the individual [California Education Code (EC) § 56050].

## Surrogate Parent

A surrogate parent is an adult appointed by the local education agency (LEA) to represent a pupil whenever the pupil does not have parental representation and has been referred for, or is currently being served in, special education. EC Section 56050 corresponds closely to 34 CFR Section 300.514 requiring that each person appointed as a surrogate parent shall:

1. Have no interest that conflicts with the interests of the child he or she represents
2. Have knowledge and skills that ensure adequate representation of the child
3. Not be an employee of a public or private agency involved in the education or care of the child

The basic premise is that surrogate parents will be persons with appropriate knowledge and skills required to adequately represent pupils served by special education who do not have parent representation in educational matters.

## Statutory Definitions

It is important to know which persons fall within the definition of "parent" because the LEA may not appoint a surrogate parent for a child who has a parent. The federal regulations implementing the IDEA define "parent" as: ". . . a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with Section 300.514 (34 CFR). The term does not include the State if the child is a ward of the State." (34 CFR § 300.10.)

The education code includes slightly different language:

"Parent" includes any person having legal custody of a child. "Parent" in addition, includes any adult pupil for whom no guardian or conservator has been appointed and the person having custody of a minor if neither the parent nor legal guardian can be notified of the educational actions under consideration. "Parent" also includes a parent surrogate. "Parent" does not include the state or any political subdivision of government (EC § 56028). EC § 56341(b)(3) and Goverment Code § 7579.5, similar to the federal definition above, permit a natural parent to designate another adult, not necessarily related to the child, to represent them in special education matters.

There will be occasions, however, when school administrators must determine whether the "person having custody of a minor" (EC § 56028) is the "parent" who is entitled to exercise parent educational rights. For example, a natural parent may have custody of a child, but a court may have limited the custodial parent's educational rights in favor of the noncustodial parent. If the noncustodial parent cannot be located, it would, ironically, be necessary to appoint a surrogate parent — to the extent that the custodial parent's educational rights had been terminated. School administrators are encouraged to familiarize themselves with the definitions of "parent" set forth in EC § 56028 and 34 CFR § 300.10. It is also advised that school administrators determine the most efficient way to find out whether parents of children who are wards of the court have retained their educational rights.

Educators are advised to identify any other legal limitations of parent's educational rights such as:

(a) Legal custody of the child is vested in a nonparent by court order;
(b) The court in a family law matter has awarded legal custody to the other parent; or
(c) The court in a family law matter has limited the parent's right to make educational decisions (Civil Code Section 4600.6).

## Conservatorship

The term "conservator" refers to a person given legal authority and responsibility by the superior court to care for an adult person, married minor, or married minor whose marriage has been di[illegible]lved. Duly appointed conservators can be identified by a document called "Letters of Conservatorship" issued by the court (California Probate Code § 1800 et seq.).

It is the California Department of Education's understanding that the conservator of an adult pupil has the rights of a parent under special education law. Rights are also recognized where a court has authorized the limited conservator to make educational decisions for an adult student who is developmentally disabled. (See "The Roles of Public Noneducational Agencies, Foster Care Providers," page 19.)

## Adult Pupils in Special Education

When a pupil reaches the age of 18, adult rights accorded under California law include the authority over his or her own education. There is a legal presumption of an individual's capacity to exercise his or her rights. The existence of a handicapping condition, however, may limit the pupil's capability to participate in the educational planning process.

An LEA has *no* authority to appoint a surrogate parent for an adult pupil even if the individualized education program (IEP) team considers the student incapable of participating in the educational process as a result of his or her disabilities. A court may appoint a conservator for this purpose. (See "Special Situations" page 25.)

*The surrogate parent role in the IEP team is to represent the rights of a pupil with special education needs in all educational matters related to the provision of a free appropriate public education.*

# *Responsibilities and Requirements of Surrogate Parents*

## The Surrogate Parent Role

The surrogate parent role on the IEP team is to represent the rights of a pupil with special education needs in all educational matters related to the provision of a free, appropriate public education (EC § 56050). These rights within the educational process are the same as for any "parent," with identical guarantees for participation in decision-making and procedural safeguards. The surrogate parent shall act as a parent on the IEP team and throughout the special educational process [34 CFR § 300.514(c)(2)(ii)].

The primary differences for surrogate parents are (1) local training requirements, as stipulated in the local plan, before appointment, (2) the term of appointment is dependent upon the absence of the actual parent's educational rights, and (3) their service may be terminated if a conflict of interest arises which may effect the child's educational program.

Surrogate parents will want to learn as much as possible about the child with disabilities in order to appropriately represent the rights of the child throughout the special education process. Federal regulations and California statutes require that LEAs provide surrogate parents training to ensure that appointees have knowledge of special education requirements, local special education options and procedures, and an adequate understanding of the child's disability and its effect on the child's learning processes. LEAs may require completion of a local parent education workshop before a surrogate parent is appointed for a specific child [34 CFR § 300.514(c)(2)(ii)].

## Authority of the Surrogate Parent

Under current law, the surrogate parent shall assume all parental rights in the IEP process (EC § 56050). The surrogate parent represents the child in all education matters including but not limited to, identification, assessment, instructional planning, educational placement, reviewing and revising the IEP, and the provision of a free appropriate public education (EC § 56050). The surrogate parent may exercise any and all of the rights granted under federal and state education law [34 CFR § 300.514(e)]. If a surrogate parent requires legal assistance in the representation of the child, the LEA must provide information about low-cost legal resources [§ 56502(c)].

## Relationship of the Surrogate Parent to Other Agencies

LEAs are advised to provide surrogate parents with information about all other state and local agencies which provide services to special education students.

## Access to Records

The surrogate parent's rights necessarily include access to review educational records relevant to any decisions made regarding the educational program of the child. That is, they have the right to review and inspect any records collected, maintained, or used by an agency to make decisions affecting the child's educational program [34 CFR § 300.514(e)].

## Liability

Surrogate parents are held harmless when acting in their official capacity except in acts or omissions found to have been wanton, reckless, or malicious [Govt. Code § 7579.5 (g)].

## Suspension/Expulsion

When a pupil is being considered for suspension or expulsion, the surrogate parent is entitled to participate as the "parent" in all phases of the proceedings. It is advised that surrogate training include information regarding suspension, expulsion, mediation, and due process hearings.

*The critical element is parental absence or a court limitation of the parent's educational rights to represent their child.*

# *When to Appoint Surrogate Parents*

This section presents procedural considerations for LEA surrogate parent appointment processes.

## Basic Criteria for Appointing a Surrogate Parent

A related set of circumstances guide LEA appointments of a surrogate parent for an individual child. With respect to wards and dependents, basic criteria appear in Govt. Code § 7579.5 (b)(1)(2)(3):

- The critical element is parental absence or a court limitation of the parent's educational rights to represent their child.
- Another equally important one is whether the child is referred or eligible for special education.
- A third element which is likely to be present when determining that a surrogate is needed for a child is either court wardship or dependency.

## Wards and Dependents of the Court

Federal regulations broadly describe a child as a "ward of the state" when the state has assumed the legal responsibility to make decisions concerning the child's welfare. Under California law, there are both "dependent" children as well as children who are described as "wards" of the courts [California Welfare & Institutions Code (WIC) § 601 and 602].

The California Juvenile Court can take jurisdiction over children who are orphans, or who have been abused, exploited or neglected by a parent or guardian pursuant to WIC § 300 et seq. A dependency proceeding is a legal action brought on behalf of an allegedly abused, neglected, or abandoned child.

The action is designed to protect children, preserve and reunify families, and to find permanent homes for children who cannot be returned to their parents. Dependency proceedings may include actions to appoint a legal guardian, terminate parental rights, and grant adoptions for dependent children (WIC § 300).

Additionally, those minors beyond parental control — who have run away, violated curfew, or are habitually truant from school — or minors who are accused or adjudicated of crimes may come under the courts jurisdiction (WIC § 601 and 602). If this jurisdiction is assumed by the court, these children are called "wards."

In either case, wards or dependents, the court may specify the status of the parent's educational rights [WIC § 361(a) and § 245.5]. Silence of the court on the issue means that the parent's rights have remained intact, wherein the LEA should be notified by the placing agency pursuant to Government Code §7579.1 et seq.

The court decision to remove children from the home of their natural parents sets multiple government

service processes in motion on the child's behalf. Those processes are often complex and arduous. With various residential placements available, the child may go into the home of relatives, into various foster care placements, or into an institutional setting.

## Variations on Basic Criteria

The three basic decision-making criteria listed above have variations. Therefore, guidelines for LEA decision-making elude a hierarchical gauge or strict procedure. In real situations, the decision factors are likely to present themselves in diverse ways — which will often require further exploration. It is best to keep in mind that the primary foundation for all decisions to appoint a surrogate parent must be knowledge about the status of the educational rights of the child's parent. The elements which expand the three basic decision-making criteria are outlined here.

**Parent absence**

- "Reasonable efforts" by school administration do not uncover or discover the whereabouts of the child's parent (See page 11 for further information about "reasonable efforts.")
- Court limitation of parent educational rights
- Adult pupil (18 years old)

**Special Education**

- Eligibility identified by IEP
- Referral for assessment for special education

**Court jurisdictions**

- Wardship or dependency
- Guardians
- General conservatorship
  public guardian
  private individuals
- Limited conservatorship
  adult pupils or minors
  over property or person

*Step I: Contacting Parents*
*Step II: Selection*
*Step III: Application*
*Step IV: Screening*
*Step V: Training*
*Step VI: Additional Procedures*

# *The Appointment Process*

This section presents procedural considerations for LEA surrogate parent appointment procedures. Recruitment efforts and time lines for appointments will be different for individuals already eligible for special education services and for those suspected of having a disability in education. The suggestions presented in this section for a step-by-step approach to the appointment process are offered for guidance only. Except for the referenced statutes, regulations, and court decisions, the described practices are not mandatory. Related sample forms are included in Appendix B and are optional.

## Getting Started

Initially, LEAs need to survey their special education population to determine their up-to-date need for surrogate parent appointments. A spreadsheet developed from local student records, databases or class lists may provide an initial needs assessment.

The following is a description of one approach used by San Benito/Santa Cruz Counties Special Education Local Planning Area (SELPA). The coordinating council of the SELPA used class lists to identify two specific groups that did *not* require surrogate parents:

1. All students who are not wards/dependents of the court for whom a parent is known to exist.
2. All voluntary placements where parent retains authority.

The remaining pupil records were analyzed. The student information spreadsheet elements included pupil and parent names, date of birth, residential placement, dependency status, status of parent educational rights, location of parent, and need for surrogate parent appointment, and dates of contacts, and responses, etc. Where student records were not complete, letters were sent to placing agencies, licensed children's institutions and foster family home operators, and parents in the case of adult pupils not in residential placement.

Letters requesting information may include a notification form. (See sample in Appendix B). It is suggested for use by the placing agency. The initial survey approach and spreadsheet analysis of local pupil information may also serve as part of the contact logs. These document LEA "reasonable efforts" to obtain necessary parent educational rights information prior to surrogate parent appointment.

The ongoing review and "reasonable efforts" to find pupils who might need surrogate parents can be included in the following administrative review processes:

- IEP administrative placement, annual and triennial reviews
- Enrollment of pupils already eligible for special education
- The process of referrals for pupils suspected of having a disability

For pupils already identified as requiring special education services, the IEP review process will provide a means for monitoring whether the pupil needs a surrogate parent. If documented "reasonable inquiries" do not locate the parent or guardian, a surrogate parent appointment would be in order.

## Step I: Contacting Parents

It is recommended that (a) efforts to locate the parent commence upon referral; (b) that the determination of the parent's location and status be made within

30 days; (c) that LEAs continue to send notices to the parent whose educational rights may still be intact; and (d) to send notices routinely, even during the appointment of a surrogate parent. If the parent is located and expresses a willingness to participate in the educational process, the surrogate parent appointment would be terminated. If the parent is located but refuses to participate in the IEP team meeting or refuses to designate a representative to participate, the LEA may want to contact the placing agency to seek clarification from the court.

If the pupil is not a ward or dependent, and if the LEA cannot determine that the pupil is in a home with an adult who is acting as a parent or who could be appointed as the surrogate parent, the LEA is advised to consider whether the mandatory reporting requirements of WIC § 300 (a) (b) apply.

Reasonable efforts to contact parents include, but are not limited to, the following measures:

- Documented telephone calls
- Letters
- Certified letters with return receipts
- Documented visits to the parents' last known address
- Placing agency notice of a court order which terminates parent rights

If the reasonable efforts described above fail to locate the parent or to obtain parent status notification from the placing agency, an interim surrogate parent appointment may be necessary. This will facilitate timely IEP review and/or establish consent for special education assessment.

Unless the educational rights have been removed, it is a good practice to send required special education notices to the natural parent or guardian when a known address becomes available.

If a surrogate parent is appointed for a child who has been referred by a "placing agency," or for a child who is a ward or dependent of the court, it would be helpful if the LEA informed the placing agency or the court of the appointment.

## Step II: Selecting Surrogate Parents

The local surrogate parent appointment program is more likely to be successful if an ongoing process of recruitment, screening, and training is used to develop and maintain a pool of candidate surrogate parents.

### *Finding Volunteers*

Appropriate community groups could be contacted for purposes of recruiting surrogate parents. It is recommended that such groups be given a clear explanation of the roles and responsibilities of educational representatives as well as an overview of the time commitments which are involved in representing a special education pupil. Volunteers should be informed that they will be representing children who have special and sometimes unique needs. They should also be informed that training is necessary [34 CFR § 300.514(c)(2)(ii)]. They must be willing to be trained to act as educational representatives for students requiring surrogates.

Other resources to consider are local school parent organizations, volunteer offices of LEAs, Community Advisory Committees, Retired Teachers Associations, service clubs, (i.e., Rotary, Lions, Soroptimists, Kiwanis), and Court Appointed Special Advocates (See listing of California Court Appointed Special Advocate Programs in Appendix E). There are some volunteer

organizations which
have established screening processes for use in recruiting persons to work with children (e.g., Big Brothers, Big Sisters, Foster Grandparents, etc.).

Successful recruitment is more likely to occur when LEAs bring their surrogate parent program needs to the attention of their local interagency network groups. The combination of local resource and referral networks, which include both public and nonpublic schools, other public noneducational agencies, private agencies, private practitioners, and other local community volunteer agencies may, assist LEAs in locating potential surrogate parents.

Once individuals have been recruited, it would make sense to screen them with respect to criminal records, illiteracy, ill health, and conflict of interests.

### *Cultural Sensitivity*

It is suggested that reasonable efforts be made to ensure that individuals representing all sections of the community and all racial, cthnic, linguistic, and economic subgroups within it are recruited and made available for appointment as educational representatives. When cultural matches are not possible, in spite of focused recruitment efforts, it would be helpful to include cultural awareness in the training package. [See Govt. Code 7579.5(d).]

The procedures for selecting surrogate parents will differ with the home circumstances in which pupils are found. When pupils are living in a family type of household, it would be a good idea to consider the adults within the household as potential surrogate parents.

### *Foster Parents*

Foster parents and care providers who live with the child in small foster family homes serve an important role in the pupil's life whether the parent retains educational rights or not. It is recommended that they be included as a partner in the special education process. These persons continue to have care-taking responsibilities related to the nonspecial education portion of the child's school program; for example, assurances of regular school attendance, consent for field trips, immunizations, etc. Because of this consequential relationship, it is important to consider the appropriateness of appointing them as a surrogate parent.

State law allows these in-home care providers to be appointed except when there is a conflict of interest [Govt. Code 7579.5 (e)(f)]. An additional factor to consider is that monies received by foster parents and small foster family home care providers are not regarded by the State Department of Social Services (SDSS) as payment for contracted services but as reimbursements for expenses incurred on the child's behalf. In-home providers are not likely to have conflict of interests unless changes in residential placement are under consideration.

When a child is placed by the juvenile court, determinations about residential placement are outside the scope of the IEP team. In circumstances where residential placement for educational purposes is under consideration, conflicts of interest are improbable when the in-home care provider is advocating for the change in placement. However, a conflict of interest could arise when the provider seeks to retain the child in the current placement. Therefore, local "blanket" policies concerning conflicts of interest may be problematic regarding in-home care providers as educational parent representatives/surrogates. When substantial issues likely to result

in a change in residential placement are faced by the IEP team, it is suggested that the LEA review appointments to reflect conflict of interest concerns. Each case should be determined on its own merits.

## Step III: Surrogate Parent Application

Local volunteer application procedures usually try to ascertain, at the outset, the following applicant information:

- Facts that show that they do not have any interests which will conflict with the pupil's in the area of special education
- Assurance that they have or are willing to acquire knowledge about the special educational interests of the pupil as well as to fulfill the role of educational representative
- Facts that show that they are not an employee of a public or private agency involved in the care or education of the pupil
- Assurance that they are willing to commit the time and energy necessary to effectively present and advance the best interests of students in educational matters without pay or reimbursements

It would be helpful to develop or adapt forms for a surrogate parent application procedure which will not only meet local personnel requirements but also assure appropriate surrogate parent appointments. (See samples in Appendix B.) Generally, implementing districts have included an application, a disclosure statement to screen potential conflict of interest, an acknowledgment that the potential appointee will complete the local training program for surrogates, and an agreement between the appointing agency and the surrogate parent which includes an assurance of confidentiality for student records.

The application package may also include a personal interest questionnaire, personal references for verification of personal information, releases of information for Department of Motor Vehicles screening or even possible fingerprinting. (Sample forms included in Appendix B.) If an LEA already has an existing volunteer program, it may be expeditious to adapt the program for surrogate appointment purposes.

## Step IV: Screening for Conflict of Interest

Federal law mandates that the "surrogate parent does not have a conflict of interest" [34 CFR § 300.514 (c)(2)(i).] Some factors to consider are whether the volunteer is:

1. Employed by an LEA or any public agency involved in the education or care of the pupil
2. Holds a position that might restrict or bias their ability to represent the pupil's educational needs
3. Holds a position that might subject them to administrative influence or reprimand for acting as the pupil's educational representative
4. Has interests that might restrict or bias his or her ability to advocate for all of the services for all of the services required to ensure a free appropriate public education for an individual with exceptional needs, as defined in section 56026 of the Education Code [Govt. Code Section 7579.5(e)].

Current instructions contained in the Department of Social Services All County Letter No. 91-25 corresponds to the 34 CFR 300.514 regulatory language. (See Appendix C.) Social workers and probation officers

are specifically precluded from acting as the child's educational representative. An employee of a public agency cannot exercise parental educational rights without a conflict of interest even when care and custody responsibilities are delegated by the juvenile court. This is because social workers, probation officers, and regional center case workers do supervise the care of the child. The possibility of administrative pressures could decrease their ability to objectively represent the best educational interests of the pupil.

"Public agency" is defined to include agencies which have residential caregiving, health and mental health services provision, and educational responsibilities. The rationale which underlies these regulations is the recognition that an individual who receives contracted salary fees from a public agency providing care or education cannot be an objective decision maker. Individuals with responsibility for the welfare of a child with disabilities may well be confronted with decisions relating to a free appropriate public education for the child which would have to be balanced against financial or other interests of the employing/contracting agency or other state institutions.

Group homes and other residential facilities which are not operated within the licensee's residence are considered businesses and viewed as having a financial conflict of interest. Therefore, employees and officers of such agencies should not be considered for appointment as a surrogate parent.

Disclosures of financial interests are the primary measures SELPAs and/or LEAs may use to establish "conflict of interest" criteria. The conflict of interest sample questionnaires, included in Appendix B, or currently adopted forms available at local or county personnel departments may be adapted as surrogate parent conflict of interest disclosure statements.

It would be advisable to complete the eligibility determination prior to inviting the surrogate parent candidate to a formal training.

## Step V: Training of Potential Surrogate Parents

The responsibility of the SELPA/LEA to appoint persons who are knowledgeable about special education may be fulfilled by providing effective screening and training and consultation on an as-needed-basis for potential surrogate parents. Training and ongoing consultation with potential volunteers may include familiarization with the following:

- Educational needs of the pupil to be represented
- Local programs and related services available in the SELPA/LEA
- Procedural safeguards to ensure that the pupil's needs are met and IEP services are delivered
- Time commitments of surrogate parents

The suggested administrative training module, which accompanies this manual, provides a comprehensive overview of surrogate parent appointment programs. Training objectives are designed to help special educational personnel and other agency staff understand the key issues involved in the implementation of a surrogate parent appointment program. The module is flexible and expandable to allow for all agencies affected by

mandated changes in surrogate parent appointments to utilize it within their own training resources.

## Step VI: Additional Procedures

It is suggested the following procedures be considered:

1. Match the pupil's needs to the most appropriate volunteer in the selection of the most appropriate potential surrogate parent.
2. Introduce the pupil and the potential surrogate parent.
3. Obtain a written agreement with the surrogate parent to serve the specific pupil in their individualized education program process and to maintain pupil and family rights to confidentiality.
4. Inform all involved persons and/or agencies responsible for the residential care and education of the pupil of the surrogate parent appointment.

It is also suggested that appointments be reviewed on an annual basis to determine if the parent status of the child still warrants the appointment.

Caseloads for surrogate parents vary nationally depending on the complexity or severity of the individual cases and the availability of surrogate parents. Other local considerations may be the driving distances between the special education programs of the represented pupils.

It is recommended that a surrogate parent's agreement to serve be documented in writing. Some examples of appointment and acceptance forms are included in Appendix B.

Whenever possible, an introductory meeting before finalizing the appointment may be arranged for the child and potential surrogate to become acquainted. Such preliminary introductions may allay any serious reservations held by the potential surrogate or the child. Once a surrogate parent is appointed, notices should be sent to all staff involved in the residential care and education of the pupil.

It is recommended that local policies be developed to ensure appropriate access by the surrogate parent to the pupil, pupil records, and meetings necessary for the development and review of the IEP. When an IEP team determines "that there are no other appropriate public education programs available," the LEA may contract with a certified nonpublic, nonsectarian school or agency to provide the services specified by the IEP pursuant to Section 56366 of the Education Code. A representative of the selected nonpublic school and agency can participate in any subsequent meetings with the surrogate parent and IEP team to review and revise the IEP.

## Appointment Terms and Dismissal of Surrogate Parent

It is advisable for LEAs to establish policies and procedures for the dismissal, resignation, or involuntary removal of appointed surrogate parents and to monitor the surrogate parents who are appointed to insure that they perform their duties in the special education process and stay free of conflict of interest. The LEA should consider whether the mandatory reporting requirements of WIC § 300 (a)(b) apply. If decisions are made to rescind the appointment of a surrogate parent, it would be helpful if the reasons are documented and given to the volunteer.

Parental rights automatically revert to the pupil's parents when parents return to assume their role, unless

their rights have been limited by a court. When the student reaches the age of majority, the student will assume the parental role within the IEP process. Emancipated minors or married minors can act in their own behalf educationally unless a court has determined otherwise.

While current law does not provide for the termination of surrogate appointments, LEAs may want to consider terminating the appointment under the following instances:

- Ineligibility for special education services is determinated by the IEP team. (However, if due process is invoked to challenge the issue of ineligibility, the surrogate remains until the challenge is resolved.)
- Actions which fall under the mandated reporting laws and threaten the health and well-being of the child are present.
- Conflict of interest or material benefit is evident for the appointee or their family.
- The surrogate parent fails to perform duties in representing the child in the special education process.
- Parents are located and retain their educational rights.

- *Determine parent educational rights*
- *Notice status of ward/dependent children*
- *Interact with LEA/SELPA*
- *Interact with surrogate parents*
- *Maintain confidentiality*
- *Provide mental health services*

# *The Roles of Public Noneducational Agencies, Foster Care Providers*

It is the purpose of this section to describe the responsibilities of the placing agencies and foster care providers, provide information needed by these agencies, and highlight the need for interagency collaboration. This section will also address issues related to local mental health involvement with appointed surrogate parents.

The majority of youth who will require surrogate parents are those who are under the jurisdiction of a county agency (such as Social Services, public guardian, and Probation) or a state agency (such as the California Youth Authority, state hospitals, and developmental centers). Areas of concern are:

- Determination of parental educational rights
- Notification regarding status of wards and dependent children
- Interaction with LEA/SELPA
- Interaction with surrogate parent
- Confidentiality
- Mental health assessment and treatment

Since placing agencies, (including Regional Centers for the Developmentally Disabled), are charged with the responsibility of maintaining "care, custody, and control" over children, it would be helpful if the agency staff and the surrogate parent understood each others' roles and responsibilities.

## Determinations of Parent Educational Rights

At the time a placement order for either a ward or a dependent is made by the court, it is assumed that the parental rights regarding education are retained unless the order specifically indicates a restriction [WIC § 245.5 and 361(a)]. Placing agencies are advised to begin efforts to confirm a parent's educational rights at the earliest point of placement as possible.

## Notifications about the Status of Wards and Dependent Children

Prior to placing a pupil who either has an existing IEP or is suspected of requiring special education services, the placing agency is responsible for notifying the local LEA in which the special education program for the child is being provided and the receiving SELPA where the child is being transferred of the impending discharge. The SELPA administrator is then responsible for providing information about the availability of an appropriate special education program in the area where the residential facility is located [Govt. Code § 7579(a)].

"The operator or placing agency, as part of the written notification, shall provide the receiving special education local plan area with a copy of the child's individualized education program, the identity of the individual responsible for representing the interests of the child for educational and related services for the impending placement, and other relevant information about the child that will be useful in implementing the child's individualized education program in the receiving special education local plan area" [Govt. Code § 7579.1 (a)(2)].

It is recommended that a written notification to the SELPA occur as soon as a placing agency has a reasonable expectation that a child with disabilities will be placed. (See suggested form in Appendix B and list of SELPAs in Appendix D). The placing agency's provision of the following information is recommended as being useful for the SELPA/LEA to facilitate appropriate educational services for the pupils: the child's name, birthday, residential placement, prior school, placement or referrals to special education, and legal status; name, address, and location and phone number of parent; legal status of parents' educational rights; and the address of the placing agency and current staff assignment. (See Appendix B for suggested forms.)

If parental rights have not been specifically limited by the court, it is suggested that the placing agency provide any additional appropriate information including address and available telephone numbers regarding the location of parent(s) so that the LEA may make a reasonable effort to contact them. Ongoing cooperation between the agencies is recommended.

In practical terms, since removal of a child is often on an emergency basis, it would be a good idea if the placing agency would notify the SELPA/LEA of the move as soon as it is anticipated.

## Interaction with Surrogate Parent

Once a surrogate parent is appointed, it is important for the noneducational agencies to understand the role of the surrogate parent and facilitate appropriate interaction with the pupil.

In order for surrogate parents to be fully informed about the pupil's disability and educational needs, it is advised that LEAs develop working agreements with noneducational agencies which will enable surrogate parents to expeditiously receive vital information.

As long as the minor remains placed within the appointing LEA/SELPA and the surrogate parent appointment has not been withdrawn, it is the responsibility of the surrogate parent to participate in educational planning for the pupil. The placing agency worker remains responsible in all other casework aspects. The foster care provider remains responsible for providing day-to-day supervision, care, and services as agreed upon with the placing agency. Since each agency is responsible for developing appropriate plans for the child and each may have a different perspective regarding the child, this relationship is potentially problematic and extremely critical.

Since no law currently defines the termination of a surrogate appointment, it may be presumed that when an LEA no longer has the responsibility to serve a student who is represented by a surrogate parent, the surrogate parent's appointment lapses. However, to the extent feasible, it would be helpful if the LEA terminating the appointment would notify whomever may be taking responsibility for educating the student (e.g., public and nonpublic school programs) that a surrogate parent relationship has been established and the surrogate parent may have important information concerning the child's educational needs.

## Confidentiality

At the present time, the law is inconsistent with regard to the authority of the educational and placing agencies to share information. This includes the informational access of the surrogate parent. Such issues include the apparent conflict between state law (EC § 49076) and federal law [Family Education Rights and Privacy Act (FERPA) 20 USC § 1232 (g)] regarding the ability of the educational agencies to share any information beyond directory information with probation officers. In addition, while the surrogate parent assumes all parental rights for education purposes, his or her ability to access information held by other agencies becomes clouded by limitations of other statutes (WIC § 827). This includes access to Juvenile Court records, all of which might be relevant to a special education plan.

Because these laws are subject to interpretation, each agency typically evaluates the issues and complies with their own legal counsel's interpretation of applicable statutes. It will be necessary for each LEA/SELPA to work out agreements with agencies that have conflicting

access laws. They should also be encouraged to share their successes with either the Special Education Division, California Department of Education, or other LEAs.

Many courts have developed "blanket" court orders which address issues regarding information sharing. The presiding judge of the juvenile court in most counties have issued special orders outlining authorization to release information in specific circumstances, under the rulings set forth in *T.N.G v. Superior Court*, 4 Cal. 3rd 767 (1971). It is suggested that efforts be made by agency administrators to inform all juvenile court judges, and the State Judicial Counsel, of the extreme importance of surrogate parents having access to all relevant information, despite conflicts in law.

Should a dispute arise between agency staff and a surrogate parent regarding access to such records in a specific case, the surrogate parent has the option of submitting a request for release to the presiding judge of the juvenile court having jurisdiction over the minor. Such requests should be specific about the information requested and the reasons why it is important for educational planning. The court will then schedule a hearing (WIC § 827). Conversely, if the surrogate refuses to authorize a release of information from the school district to the placing agency, the placing agency may request a court order.

In order to ensure the confidentiality of all records, it is advised that the LEA provide detailed training to the surrogate parent which assures that any protected information will not be released and will be appropriately returned or destroyed when the surrogate parent appointment ends. Such an assurance should facilitate the case management interaction with the agencies.

## Local Mental Health Intervention

When a surrogate parent is appointed and agrees that there is a need for local mental health involvement, Govt. Code § 7579.5 (c) authorizes the surrogate parent to give written consent for nonemergency medical services, mental health treatment services, and occupational or physical therapy services relative to the individualized education program of the child being represented.

*Each local plan, submitted to the CDE for review and subsequent approval by the State Board of Education, must describe the manner in which it will comply with the federal surrogate parent mandate, EC § 56200.*

# *Monitoring and Complaint Procedures*

This section describes various methods for state and local oversight of surrogate parent appointment programs.

Each local plan, submitted to the California Department of Education for review and subsequent approval by the State Board of Education, must describe the manner in which it will comply with the federal surrogate parent mandate, EC § 56200.

LEAs are encouraged to maintain adequate record keeping of their appointment, training, and monitoring of the surrogate parent program. Likewise, individual surrogate parents are trained and encouraged to comply with appropriate record keeping policies, procedures, and methods to ensure that each pupil's needs for special education and related services are appropriately represented in meetings of the IEP team.

To ensure that surrogate parent programs are consistent with both federal and state law, such programs are required to be monitored. This will occur via the California Department of Education's Coordinated Compliance Review process.

If a complaint arises, it can be handled pursuant to Title 5 CCR §§ 4600-4671. A surrogate parent is entitled to request a due process hearing pursuant to EC § 56500 et seq. Complaints arising under the interagency coordination statute (with Mental Health and California Childrens Services) can be addressed pursuant to Goverment Code § 7585. Disagreements which occur in regard to the pupil's individualized education plan are resolved through due process procedures set forth in EC § 56500 et seq.

Other agencies and departments interacting with the child will have distinct monitoring and complaint procedures with which the LEA must interface. When contracting with a nonpublic school or agency to provide special education and related services for eligible pupils, it is recommended that the LEA include contract provisions which will ensure that appropriate visitations and involvement in the educational placement is provided to surrogate parents. Additionally, public, noneducational agencies have established complaint procedures in place to ensure that the best interests of the child are always the primary concern of any assigned staff.

*The following situations and questions have been reviewed by Barry Zolotar, Deputy General Counsel, California Department of Education*

# *Special Situations*

## QUESTIONS AND ANSWERS

### SITUATION

**If a pupil is 18 years old or older, is competent to represent him/herself, and is not conserved:**

**Who is the "parent" under California law? i.e., the student or the parent?**
**Answer:** The student.

**Which signature is required for consent to assess, IEPs, etc.?**
**Answer:** The student's.

**Which signature/consent is binding if the student and parent are both at the meeting and disagree?**
**Answer:** The student's.

**What role does the natural parent play if the student is the "parent."**
**Answer:** The natural parent may still have a role in an IEP meeting despite the fact that the student has become an adult. There is no law which defines, definitively, the natural parent's role. The natural parent continues to have due process rights at this point but there is no law which defines those rights.

Thus, if both attend the same IEP meeting, the natural parent's role will be dependent upon the dynamics between the parent and adult child/student. If the "adult student" is not capable of making a substantive contribution to the IEP process and is not conserved, the parent should have the right to speak on behalf of the student. However, if the student is capable enough to say "no" to the parent's active participation, but is capable of no more than that, there isn't much that can be done about developing a program.

The LEA, at this point, may want to advise the student's parent to commence conservatorship procedures (at least for educational purposes) if the student and parent disagree and the student is nevertheless incapable of contributing anything substantive to the IEP process.

### SITUATION

**If a student is 18 years old or older, is not competent, and is not conserved:**

**Who is the "parent" under California law? (Often there is no natural parent). Whose signature is required for consent to assess, IEPs, etc.? Would a surrogate need to be appointed if no parent can be found? Who determines and what criteria is used to ascertain if a pupil is competent or not?**

**Answer:** Local school officials (LSO) are not qualified to make an official determination that an adult student is incompetent. If such a student comes to an IEP meeting and cannot function in his/her own behalf and there is no parent, the IEP process cannot go forward. If the student is also a client of another pertinent local or state agency, a LSO may want to bring this to their attention. While an LSO is not obligated to invoke the conservatorship process, no law prohibits it either.

Appointing a surrogate parent may be the most expeditious way to move forward with the student's special education. The authority for appointing a surrogate under these circumstances is EC § 35160, the permissive education code. The natural parent, if available, would have the right to represent the pupil if the pupil does not object. Having a surrogate

appointed for this purpose, when the natural parent is unavailable, would not be in conflict with federal surrogate law. (See 34 CFR § 300.514(b).) Though state law currently does not provide for this, the permissive education code should suffice.

The rights of a conservator, as to all aspects of a conservatee's affairs (which include education), are spelled out in the conservatorship statutes. It is unlikely that an LSO would be concerned about this. A person who is appointed by a court to be a conservator is, as a matter of law, wholly unbiased. Thus, there would be no conflict problem.

## SITUATION

**If a pupil of any age is conserved and the conservator is an employee of a public or private agency involved in the care, custody, and control of the pupil:**

**Is there a conflict of interest and should a surrogate be appointed?**
**Answer:** Since the conservator is appointed by a court, the court should be presented with the educational conflict issue. The court could either appoint a different conservator or authorize an LEA to appoint a surrogate for special education purposes.

**If the student or his natural parents are not residents of the county where the conservator lives or works, which district is responsible to conduct an assessment, hold an IEP, access AB 3632 services and/or pay nonpublic school costs? District where the child is living? District where the natural parents are living? District where the conservator lives? District where the conservator works?**
**Answer:** The district where the child is living. The reference, in the question, to the natural parents is inapplicable, because their rights or any of the student's rights which may be attributed to the natural parents' resident is superseded by the conservatorship.

**Is there a difference if the student is under 18 years of age or over 18 years of age?**
**Answer:** No.

**Can regional center case managers serve as surrogate parents?**
**Answer:** Generally yes, but not if the case manager is employed by the regional center responsible for the child, because employees of public or private agencies involved in the care or education of the child may not serve as surrogate parents [34 CFR § 300.514.) (d), Govt. Code § 7579.5(f)].

# *Appendices*

APPENDIX A:
*Statute Code References* ..... 29

APPENDIX B:
*SAMPLES FORMS*
*Request for Information* ..... 35
*Notification* ..... 36
*Information/Registration* ..... 37
*Surrogate Parent Training Certification* ..... 38
*Appointment/Acceptance of Surrogate Parent* ..... 39
*Community Volunteer Application* ..... 40
*DOVES Application* ..... 41

APPENDIX C:
*All County Letter* ..... 43

APPENDIX D:
*SELPA Directory* ..... 47

APPENDIX E:
*Court Appointed Special Advocates* ..... 55

CHARTS
*Conserved Adult Individual with Disability* ..... 57
*Surrogate Parent Appointment Process*
*Program Guidelines* ..... 59

## Federal Surrogate Parent Mandates (Statute)

**20 U.S.C. § 1415(b)(1)(8) Procedural safeguards**

(a) Establishment and maintenance

Any State educational agency, any local educational agency and any intermediate educational unit which receives assistance under this subchapter shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that handicapped children and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

(b) Required procedures; hearing

(1) The procedures required by this section shall include, but shall not be limited to —

> (B) procedures to protect the rights of the child whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the state, including the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as a surrogate for the parents or guardian;

## Federal Regulation Implementing Above Statute

**34 C.F.R. § 300.514 Surrogate parents**

(a) General. Each public agency shall insure that the rights of a child are protected when:

(1) No parent (as defined in § 300.10) can be identified;

(2) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

(3) The child is a ward of the State under the laws of that state.

(b) Duty of public agency. The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parents. This must include a method (1) for determining whether a child needs a surrogate parent, and (2) for assigning a surrogate parent to the child.

(c) Criteria for selection of surrogates.

(1) The public agency may select a surrogate parent in any way permitted under State law.

(2) Public agencies shall insure that a person selected as a surrogate:

(i) Has no interest that conflicts with the interest of the child he or she represents; and

(ii) Has knowledge and skills, that insure adequate representation of the child

(d) Non-employee requirement; compensation.

(1) A person assigned as a surrogate may not be an employee of a public agency which is involved in the education or care of the child.

(2) A person who otherwise qualifies to be a surrogate parent under paragraphs (c) and (d)(1) of this section, is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(c) Responsibilities. The surrogate parent may represent the child in all matters relating to:
(1) The identification, evaluation, and educational placement of the child, and
(2) The provision of a free appropriate public education to the child.

*(Authority: 20 U.S.C. 1415(b)(1)(B))*

## State Statutory Mandate

**EC § 56050. Representation of individuals with exceptional needs; liability**

(a) For the purposes of this article, "surrogate parent" shall be defined as it is defined in the federal regulations adopted pursuant to Public Law 94-142.

(b) A surrogate parent may represent an individual with exceptional needs in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate education to the individual. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. The surrogate parent may sign any consent relating to individualized education program purposes.

(c) A surrogate parent shall be held harmless by the State of California when acting in his or her official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

(d) A surrogate parent shall also be governed by Section 7579.5 of the Government Code. [Added by Stats. 1981, c. 1044, p. 4002, § 4. Amended by Stats. 1990, c. 182 (A.B. 1528), § 2 and Stats. 199, c. 223 (AB 1060), § 4]

*Former § 56050 was repealed by Stats. 1980, c. 797, p. 2411, § 8.*

## Federal Definition of "Parent"

**34 C.F.R. § 300.10 Parent**

As used in this part, the term **parent** means a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with § 300.514. The term does not include the State if the child is a ward of the State.

*(Authority: 20 U.S.C. 1415)*

Comment. The term **parent** is defined to include persons acting in the place of a parent, such as a grandmother or stepparent with whom a child lives, as well as persons who are legally responsible for a child's welfare.

## State Definition of "Parent"

**EC § 56028**

"Parent" includes any person having legal custody of a child. "Parent," in addition, includes any adult pupil for whom no guardian or conservator has been appointed and the person having custody of a minor if neither the parent nor legal guardian can be notified of the educational actions under consideration. "Parent" also includes a parent surrogate. "Parent" does not include the state or any political subdivision of government. [Added by Stats. 1980, c. 797, § 9. Amended by Stats. 1990, c. 182 (A.B. 1528), § 1 .]

## New State Law
## Appointment, Qualification, and Liability of Surrogate Parents

**Govt. Code § 7579.5 (AB 1528)**

(a) A surrogate parent shall not be appointed for a child who is a dependent or ward of a court unless the court specifically limits the right of the parent or guardian to make educational decisions for the child. A surrogate parent shall not be appointed for a child who has reached the age of majority unless the child has been declared incompetent by a court of law.

(b) A local educational agency shall appoint a surrogate parent for a child under one or more of the following circumstances:

(1) The child is adjudicated a dependent or ward of the court pursuant to Section 300, 601, or 602 of the Welfare and Institutions Code upon referral of the child to a local educational agency for special education and related services, or in cases where the child already has a valid individualized education program.

(2) No parent for the child can be identified.

(3) The local educational agency, after reasonable efforts, cannot discover the location of a parent.

(c) For the purposes of this section, the surrogate parent shall serve as the child's parent and shall have the rights relative to the child's education that a parent has under Title 20 (commencing with Section 1400) of the United States Code and pursuant to Part 300 of Title 34 (commencing with Section 300.1) of the Code of Federal Regulations. The surrogate parent may represent the child in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in all other matters relating to the provision of a free appropriate public education of the child. Notwithstanding any other provision of written consent to the individualized education program including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to this chapter. The surrogate parent may sign any consent relating to individualized education program purposes.

(d) As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child.

(e) Individuals who would have a conflict of interest in representing the child, as specified under federal regulations, shall not be appointed as a surrogate parent. "An individual who would have a conflict of interest," for purposes of this section, means a person having any interests that might restrict or bias his or her ability to advocate for all of the services required to ensure a free appropriate public education for an individual with exceptional needs, as defined in Section 56026 of the Education Code.

(f) Except for individuals who have a conflict of interest in representing the child, and notwithstanding any other law or regulations, individuals who may serve as surrogate parents include, but are not limited to, foster care providers,

retired teachers, social workers, and probation officers who are not employees of a public agency involved in the education or care of the child. The surrogate parent shall not be an employee of a public or private agency that is involved in the education or care of the child. If a conflict of interest arises subsequent to the appointment of the surrogate parent, the local educational agency shall terminate the appointment and appoint another surrogate parent.

(g) The surrogate parent and the local educational agency appointing the surrogate parent shall be held harmless by the State of California when acting in their official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

(h) Nothing in this section shall be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services.

(i) If funding for implementation of this section is provided, it may only be provided from Item 6110-161-890 of the Budget Act.

*[Added by Stats. 1990, c. 182 (A.B. 1528), § 5and Stats. 1991, c. 223 (AB 1060), § 10.]*

## Court Specificity Concerning Limitation of Parent's Rights

**WIC § 245.5**

In addition to all other powers granted by law, the juvenile court may direct all such orders to the parent, parents, or guardian of a minor who is subject to any proceedings under this chapter as the court deems necessary and proper for the best interests of or for the rehabilitation of the minor. These orders may concern the care, supervision, custody, conduct, maintenance, and support of the minor, including education and medical treatment.

**WIC § 361(a)**

In all cases which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. Any limitation on the right of the parent or guardian to make educational decisions for the child shall be specifically addressed in the court order. The limitations shall not exceed those necessary to protect the child.

## Exchanging Information Between Non-Educational Placing Agencies and LEAs

**Govt. Code § 7579. (a)**

Prior to placing a handicapped child or a child suspected of being handicapped in a residential facility outside the child's home, a court, regional center for the developmentally disabled, or public agency other than an educational agenc, shall notify the administrator of the special education local plan area in which the residential facility is located. The administrator of the special education local plan area shall provide the court or other placing agency with information about the availability of an appropriate public or nonpublic nonsectarian special education program in the special education local plan area where the residential facility is located.

**Govt. Code § 7579.1(a)**

Prior to the discharge of any handicapped child who has an active individualized education program from a public hospital, proprietary hospital, or residential medical facility pursuant to Article 5.5 (commencing with Section 56167) of Ch. 2 of Part 30 of the Education Code, a licensed children's institution or foster family home pursuant to Article 5 (commencing with Section 56155) of Ch. 2 of Part 30 of the Education Code, or a state hospital for the developmentally disabled or mentally disordered, the following shall occur:

(1) The operator of the hospital or medical facility, or the agency that placed the child in the licensed children's institution or foster family home, shall, at least ten days prior to the discharge of a handicapped child, notify in writing the local educational agency in which the special education program for the child is being provided and the receiving special education local plan area where the child is being transferred of the impending discharge.

(2) The operator or placing agency, as part of the written notification, shall provide the receiving special education local plan area with a copy of the child's individualized education program, the identity of the individual responsible for representing the interests of the child for educational and related services for the impending placement, and other relevant information about the child that will be useful in implementing the child's individualized education program in the receiving special education local plan area.

(b) Once the handicapped child has been discharged, it shall be the responsibility of the receiving local educational agency to ensure that the handicapped child receives an appropriate educational placement that commences without delay upon his or her discharge from the hospital, institution, facility, or foster family home in accordance with Section 56325 of the Education Code. Responsibility for the provision of special education rests with the school district of residence of the parent or guardian of the child unless the child is placed in another hospital, institution, facility, or foster family home in which case the responsibility of special education rests with the school district in which the child resides pursuant to Sections 56156.5, 56156.6, and 56167 of the Education Code.

**EC § 56156**

(a) Each court, regional center for the developmentally disabled, or public agency that engages in referring children to, or placing children in, licensed children's institutions shall report to the special education administrator of the district, special education local plan area, or county office in which the licensed children's institution is located, any referral or admission of a child who is potentially eligible for special education.

(b) At the time of placement in a licensed children's institutions or foster family home, each court, regional center for the developmentally disabled, or public agency shall identify all of the following:
(1) Whether the courts have specifically limited the rights of the parent or guardian to make educational decisions for a child who is a ward or dependent of the court.
(2) The location of the parents, in the event that the parents retain the right to make educational decision.
(3) Whether the location of the parents is unknown.

(c) Each person licensed by the state to operate a licensed children's institution, or his or her designee, shall notify the special education administrator of the district, special education area, or county office in which the licensed children's institution is located of any child potentially eligible for special education who resides at the facility.

BEST COPY AVAILABLE

## Confidentiality of Student Information

EC § 49076

A school district is not authorized to permit access to pupil records to any person without written parental consent or under judicial order except that:

(a) Access to those particular records relevant to the legitimate educational interests of the requester shall be permitted to the following:

(b) Any probation officer or district attorney for the purposes of conducting a criminal investigation or any investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation.

No person, persons, agency, or organization permitted access to pupil records pursuant to this section shall permit access to any information obtained from those records by any other person, persons, agency, or organization without the written consent of the pupil's parent. However, this paragraph shall not be construed as to require prior parental consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency, or organization obtaining access, so long as those persons have a legitimate interest in the information.

WIC § 827

(a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the minor who is the subject of the proceedings, his or her parents or guardian, the attorneys for those parties, and such other persons as may be designed by court order of the judge of the juvenile court upon the filing of a petition therefore ...

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, any information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any such records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent or ward of the juvenile court.

## Request for Information from Noneducational Agency

Date_____
Student_____
Birthdate_____

Dear _____:

In accordance with a new California law (California Statutes, Chapter 182) which became effective on January 1, 1991, it is necessary to accurately determine the status of the person who may legally represent the above-named student for special education purposes. Please use the attached form and complete all indicated information. If the adult pupil is not conserved relative to their rights to make educational decisions, the pupil may represent themselves. If a conservator exists, please indicate their status regarding his/her right to educationally represent the pupil.

If parent educational rights have not been limited, please provide as much information as possible. We would appreciate assistance in locating the parents.

Thank you for your cooperation in this matter. Please return the attached form to _____ _____ by _____. Should you have any questions or require further information, please contact _____.

Sincerely,

Attachment

## NOTIFICATION OF PLACEMENT OF INDIVIDUAL WITH EXCEPTIONAL NEEDS IN LICENSED CHILDREN'S INSTITUTION OR FOSTER FAMILY HOME

Education Code Section 56156 et seq.
Government Code Section 7579 et seq.

**Directions:** To be completed by placing agency representative at the time of placement/transfer of a school-age individual with exceptional needs into a licensed children's institution or foster family home within the special education local plan area (SELPA).

| | | |
|---|---|---|
| To<br>SELPA Director | County/District | |
| From (name and title of placing agency representative) | County/Agency name | Telephone<br>( ) |
| Address | City | ZIP code |
| Name of pupil (last, first, and initial) | | Birthdate |

| | | | |
|---|---|---|---|
| Case/Client no. | Date of placement | Ethnicity | Primary language (other than English) |

| | | |
|---|---|---|
| Parent or guardian (last and first) | | Telephone<br>( ) |
| Address | City | ZIP code |
| Care provider (last and first) or facility | | Telephone<br>( ) |
| Address | City | ZIP code |
| Conservator/Position/Agency (if appointed) | | Telephone<br>( ) |
| Address | City | ZIP code |

| | | |
|---|---|---|
| County of child's prior residence | Previous school district attended | City |

The following applies to the client's educational representation (check all that apply):

- ☐ The child has a current Individual Education Program (IEP).
- ☐ The child is a ward or dependent of the court.
  - ☐ The court has removed parent/guardian rights to represent the pupil for educational purposes.
- ☐ The client is an adult with no conservator having educational authority.
- ☐ A conservator has been appointed to represent the student:
  - ☐ General conservatorship
  - ☐ Limited conservatorship
- ☐ The parent/guardian is deceased (provide date of death) or whereabouts are unknown to the agency.
  Provide last known address (with date).

  _____

  _____

- ☐ Other: _____

| | |
|---|---|
| Signature of placing agency representative<br>≥ | Date |

FOR USE BY SELPA ADMINISTRATOR

| | | |
|---|---|---|
| District of residence | Notified by | Date |

(Adapted by Surrogate Parent Working Committee with permission of San Benito/Santa Cruz Counties SELPA, 3/91.)

## EDUCATIONAL REPRESENTATIVE (SURROGATE PARENT) INFORMATION/REGISTRATION

Name

Home address

| Home phone | Business phone |
|---|---|
| Employer | Occupation |

Business address

| Ethnicity | Bilingual skills |
|---|---|

Have you had any affiliations with the school district in any capacity as a parent or a professional?

☐ Yes ☐ No

If so, what was your role and which school were you associated with?

Are you willing to participate in a training on the role, rights, and responsibilities of an educational representative?

☐ Yes ☐ No

To serve as an educational representative, it must be established that you have no interests that conflict with the interests of the child. Therefore, we are asking you to answer the following questions:

| | | |
|---|---|---|
| Are you an employee of the school district or any public agency involved in the education or care of the child? | ☐ Yes | ☐ No |
| Do you hold a job that might restrict or bias your ability to advocate for the child's educational needs? | ☐ Yes | ☐ No |
| Do you hold any position that might subject you to administrative influence or reprimand for the faithful execution of your duties as an educational representative? | ☐ Yes | ☐ No |
| Do you hold any opinion or institutional bias against the school district or the public agencies involved in the education or care of the child? | ☐ Yes | ☐ No |

(Adapted with San Francisco Unified School District permission, 3/91.)

## Surrogate Parent Training Certification

Dear Surrogate Parent:

This letter is to certify your completion of the requirements prescribed by the _____ for Surrogate Parent Training.
(SELPA/LEA)

The Surrogate Parent Training Program included the following topics:

1. Federal and state laws, regulations, and rules;
2. Special education; and
3. The role and responsibilities of the surrogate parent in the special education process.

The information obtained from this training will enable you to adequately represent the interests of the child for whom you will be assigned. If you have questions about the content of your training program, please feel free to call the _____.
(SELPA/LEA)

Sincerely,

SELPA/LEA Coordinator

cc: Superintendent

## Appointment/Acceptance of Surrogate Parent

Special Education Local Plan Area

I appoint_____to act as surrogate parent in matters involving the education of_____. This representative shall have parental authority in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate education for the individual.

This appointment shall remain in effect until any of the following occur:

1. The pupil's parent is located.
2. The placing agency representing a child who is a ward or dependent of the court appoints an educational representative.
3. The surrogate parent is unwilling or unable to carry out his or her responsibilities to the best interest of the child.
4. The surrogate parent is in a position with a conflict of interest in the above matter.

LEA Special Education Administrator Telephone Date

### ACCEPTANCE OF APPOINTMENT

I, _____, hereby accept the above appointment. At such time as I am unable or unwilling to continue this appointment, I will notify the LEA Special Education Administrator designated above. I understand that I shall be held harmless by the State of California when acting in my official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

I acknowledge that_____ has provided training regarding the laws applicable to surrogate parent responsibilities and the continuum of education program placements and opportunities available for individuals with disabilities.

I agree to maintain all student records and information in a confidential manner. Upon the termination of this agreement, I will return all such records to_____.

Surrogate parent (signature) Date

Address

City ZIP Telephone

(Adapted with San Francisco Unified School District permission, 3/91.)

# Community Volunteer Application

**COMMUNITY VOLUNTEER APPLICATION**
Los Angeles Unified School District

APPENDIX B
SAMPLE FORMS

Please return to:
Volunteer, Tutorial & DOVES Programs
Los Angeles USD
450 N. Grand Ave., Room G-252
Los Angeles, CA 90012
Telephone: (213) 625-6900

( ) Mailing list
( ) I.D. sent

OFFICE USE ONLY

ASSIGN TO

School

Region | Date of application

SKIN TEST OR X-RAY

Number | Date

Volunteer coordinator

Please read carefully and fill in completely. Please print or type.

**DOVES VOLUNTEER**

[ ] Mr. [ ] Miss
[ ] Mrs. [ ] Ms.

Age (optional)

Home address (street, city, ZIP)

Home telephone ( ) | Business telephone ( )

**IN CASE OF EMERGENCY, NOTIFY:**

Name | Telephone ( )

Address

Two references (not relatives)

1. | 2.

I heard about the school volunteer program from: _____

[ ] Have car
[ ] Use freeways
[ ] Use surface streets only
[ ] Use bus only
[ ] Other travel arrangements: _____

**EDUCATION AND EXPERIENCE**

Grade level achieved | Foreign language spoken | Work experience

Now employed at | Volunteer experience

**PLACEMENT PREFERENCES**

[ ] Willing to go where needed
[ ] Near home

Can serve:
[ ] Morning
[ ] Afternoon
[ ] Saturday

Days I can serve: | Maximum hours/days

**VOLUNTEER SERVICE PREFERENCES**

Help with:
[ ] Reading
[ ] English
[ ] Math
[ ] Social science
[ ] Foreign language
[ ] Arts
[ ] Arts/crafts
[ ] Library
[ ] Music
[ ] Science
[ ] Office work
[ ] Other

Student age:
[ ] Preschool
[ ] Elementary (1-3)
[ ] Elementary (4-6)
[ ] Junior high
[ ] Senior high
[ ] Adults

Special programs:
[ ] Adult education
[ ] After-school programs
[ ] Children center
[ ] Continuation
[ ] Disabled
[ ] English as a second language
[ ] Health services
[ ] Homemaking
[ ] Magnets
[ ] Preschool/kindergarten
[ ] Others

To protect the good health of students throughout the school district, the Los Angeles and the California State Boards of Education require that all school volunteers and employees be tested for possible exposure to tuberculosis every four years. Volunteers may be tested by their own physician, or visit a Los Angeles County Health Center. Volunteers whose applications are on file with this office are covered by Workers' Compensation Insurance.

Volunteer's signature > | Date

Principal's signature > | School

(Used with permission, 3/91)

44

# Dedicated Older Volunteers in Educational Services Application

## Sample

## SCHOOL VOLUNTEER APPLICATION

Los Angeles Unified School District

Please return to:
Odaris I. Jordan, Director
Volunteer & Tutorial Programs
Los Angeles USD
450 N. Grand Ave., Room G-252
Los Angeles, CA 90012
Telephone: (213) 625-6080
Valley (toll-free): 997-2300, ext. 6080

( ) Mailing list
( ) File card
( ) I.D. sent

| ASSIGN TO | | |
|---|---|---|
| School | | |
| Region | Date of application | Date volunteer placed |
| X-RAY | | |
| Number | | Date |
| Name | | |
| Birthdate Month | | |

**DOVES VOLUNTEER** (last and first) Age (optional)

__ Mr. __ Miss

__ Mrs. __ Ms.

Home address (street, city, ZIP)

Home telephone Business telephone

**IN CASE OF EMERGENCY, NOTIFY:**

Name Telephone

Address

**HOW WERE YOU RECRUITED?**

☐ Newspaper ☐ TV ☐ Radio Other: _____ ☐ Flyers

Name of organization

**PLACEMENT PREFERENCES**

☐ Willing to go where needed
☐ Near home
☐ At home

Can serve:
☐ Morning ☐ Evening
☐ Afternoon ☐ Saturday

Days I can serve: _____

Maximum number of hours per day: _____

Grade level I prefer:
☐ Preschool
☐ Junior ☐ Adult
☐ Elementary
☐ Senior ☐ Special

**LIFE EXPERIENCE**

Do you have a cultural background you can share with children? ☐ Yes ☐ No If so, what is it? _____

Previous occupation: _____
Retired from (name of company): _____ Years employed: _____
Present employment (name of company): _____ Hours: _____

**AFFILIATIONS (circle):**

Union Trade associations Professional organizations Fraternal organizations

**EDUCATION:** Eighth grade High school College Postgraduate

**WHAT CAN YOU DO AS A DOVES VOLUNTEER?**

Your most valuable asset is your love of children and your desire to help. You may tell stories, particularly tales of your early childhood. Most children are enthusiastic and delighted with true life experiences, such as: "When I was your age" or "I remember."

**PLEASE INDICATE AREAS IN WHICH YOU WOULD LIKE TO HELP:**

☐ Tutoring individual children ☐ Working with small groups ☐ Making instructional materials ☐ Sharing an interest in art, music, dancing, photography, sewing, knitting, cooking, sports, carpentry, etc. ☐ Sharing career or job experience ☐ Helping in library Reading or telling stories
☐ Counseling ☐ Playground ☐ Typing or clerical ☐ Other (explain):

Signature _____ Date _____

# All County Letter

STATE OF CALIFORNIA--HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

March 22, 1991

ALL COUNTY LETTER NO. 91-25

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY COUNSELS
ALL COUNTY PROBATION OFFICERS
ALL JUVENILE COURT JUDGES

SUBJECT: ASSEMBLY BILL 1528 (CHAPTER 182, STATUTES OF 1990)

The purpose of this All County Letter (ACL) is to inform counties of the provisions of Assembly Bill (AB) 1528 (Chapter 182, Statutes of 1990), which became effective January 1, 1991.

Assembly Bill 1528, which was sponsored by the California State Department of Education, Commission on Special Education, amended Sections 56028, 56050, 56156, and 56200 of the Education Code; added Section 7579.5 to the Government Code; and amended Sections 245.5 and 361 of the Welfare and Institutions Code regarding the appointment of surrogate parents for dependents or wards of the court who require specified special education.

Most of these amendments address the responsibilities of the Local Educational Agency (LEA), in the provision of special education for children with identified exceptional educational needs who are dependents or wards of the court. The amendments identify the LEA (e.g. district, county office of education, Special Education Local Plan Area (SELPA)) as the agency responsible for appointing surrogate parents under prescribed conditions; make the definition of "parent" consistent in State and federal law; identify the activities in which the surrogate parent has a role; define the responsibilities of those involved in the provision of special education; and describe the required information to be provided in each local plan and multidistrict plan.

While the amendments described above basically pertain to the responsibilities of the State Department of Education, SELPAs and LEAs, two of the amendments in AB 1528 directly affect county welfare and probation department activities and responsibilities.

# All County Letter



One of these amendments is the requirement that the individual appointed to act as a surrogate parent for a child with identified exceptional educational needs may not be an employee of a public agency which is involved in the education or care of the child (Section 7579.5(f) of the Government Code). This precludes social workers and probation officers from acting in the capacity of a surrogate parent.

This is a change from the information provided counties by the State Department of Social Services via ACL 86-48 (June 6,1986). Page three, paragraph one of ACL 86-48 states:

"When an IEP team meeting is conducted for a court dependent, absent any specific court order to the contrary, the agency which has been assigned care, custody and control by the court is responsible for functioning as the child's legally responsible agent for educational purposes. This responsibility includes consenting in writing to assessments and the content of the IEP. The IEP cannot be implemented without the CWD's consent. This responsibility cannot be delegated. (However, when reunification is anticipated, the child's parents should also be encouraged to participate in the IEP process.)"

These instructions, which were based on existing juvenile court dependency statute, provided for county staff, including social workers and probation officers, to actively participate in the planning, development and authorization of "individualized education programs" (IEPs) for children with identified exceptional educational needs, when the child had no parent/guardian, or when the parent's rights to make decisions regarding the child's education had been removed.

Enactment of AB 1528 brings California into compliance with federal law (Title 34, CFR 300.514(d)) which requires that a person appointed as a surrogate parent may not be an employee of a public agency which is involved in the education or care of the child. (This law, as interpreted by the Federal Government, specifically precludes social workers and probation officers from acting as the child's educational representative.)

Additionally, the amendment to Section 361 of the Welfare and Institutions Code enacted as a result of AB 1528 requires the juvenile court to specifically address any limitation of the right of the parent or guardian of a child with identified exceptional educational needs to make educational decisions for the child. AB 1528 authorizes the juvenile court to specifically address education in its orders about care, supervision, custody, conduct, maintenance, support and medical treatment.

# All County Letter



While the new law precludes certain employees of public agencies from acting as surrogate parents, those employees should continue to provide information to the juvenile court which would be useful to help the court address the rights of the parents to make educational decisions for the child. Counties should also continue to provide information to local education agencies, county offices of education and SELPAs as necessary to ensure appropriate educational services for wards and dependents of the court.

In summary, as a result of the enactment of AB 1528, certain public employees (i.e., social workers, probations officers) will no longer be responsible for or permitted to perform the activities of surrogate parent regarding education issues. These activities will be performed by educationally appointed surrogate parents or by the child's parent(s)/guardian(s) who retains authority to make educational decisions for his/her child. Additionally, the juvenile court is now responsible for specifically addressing the rights of parents/guardians with regard to educational issues for children with identified exceptional educational needs.

Implementation of the new law is being coordinated by the State Department of Education. A series of workshops addressing the key aspects of AB 1528 is planned for the first half of 1991. The State Department of Education will invite staff from local education agencies, county welfare departments, county probation offices, county departments of mental health, representatives from the local juvenile justice system and group home providers to attend the workshops.

If you have any questions regarding the information provided in this ACL, contact your Child Welfare Services Operations consultant at (916) 445-0623.

LOREN D. SUTER
Deputy Director

cc: County Welfare Directors Association

# Special Education Local Plan Areas & Administrators

1991-92
California Department of Education
Special Education Division

(Revised 3/91)

## NORTHERN CALIFORNIA

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Vivian Lura
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Vacant
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Mid-County SELPA
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Willows, CA 95988
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**HUMBOLDT/ DEL NORTE COUNTIES**
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Inyo County Schools
135 South Jackson Street
P.O. Drawer G
Independence, CA 93526
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**KINGS COUNTY**
Sam Comp, SELPA Administrator
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Government Center
1144 West Lacey Blvd.
Hanford, CA 93230
(209) 584-1441 Ext. 2909

**LAKE COUNTY**
C. E. Donaldson, Director
Special Schools and Classes
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Lakeport, CA 95453
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**MADERA/MARIPOSA COUNTIES**
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December 1990

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CASA Program of Alameda County
Alameda County Juvenile Court
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Oakland, CA 94607
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Richard Wishnak, Director

**CONTRA COSTA**
Court Appointed Special
Representative Program, Inc.
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Pleasant Hill, CA 94523
(415) 256-7284
Millie Gilson, Executive Director

**FRESNO**
Fresno Amicus Program
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Fresno, CA 93702
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Lupe Gonzalez, Director

**LOS ANGELES**
Child Advocates Office
Dept 200/Criminal Courts Building
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Los Angeles, CA 90012
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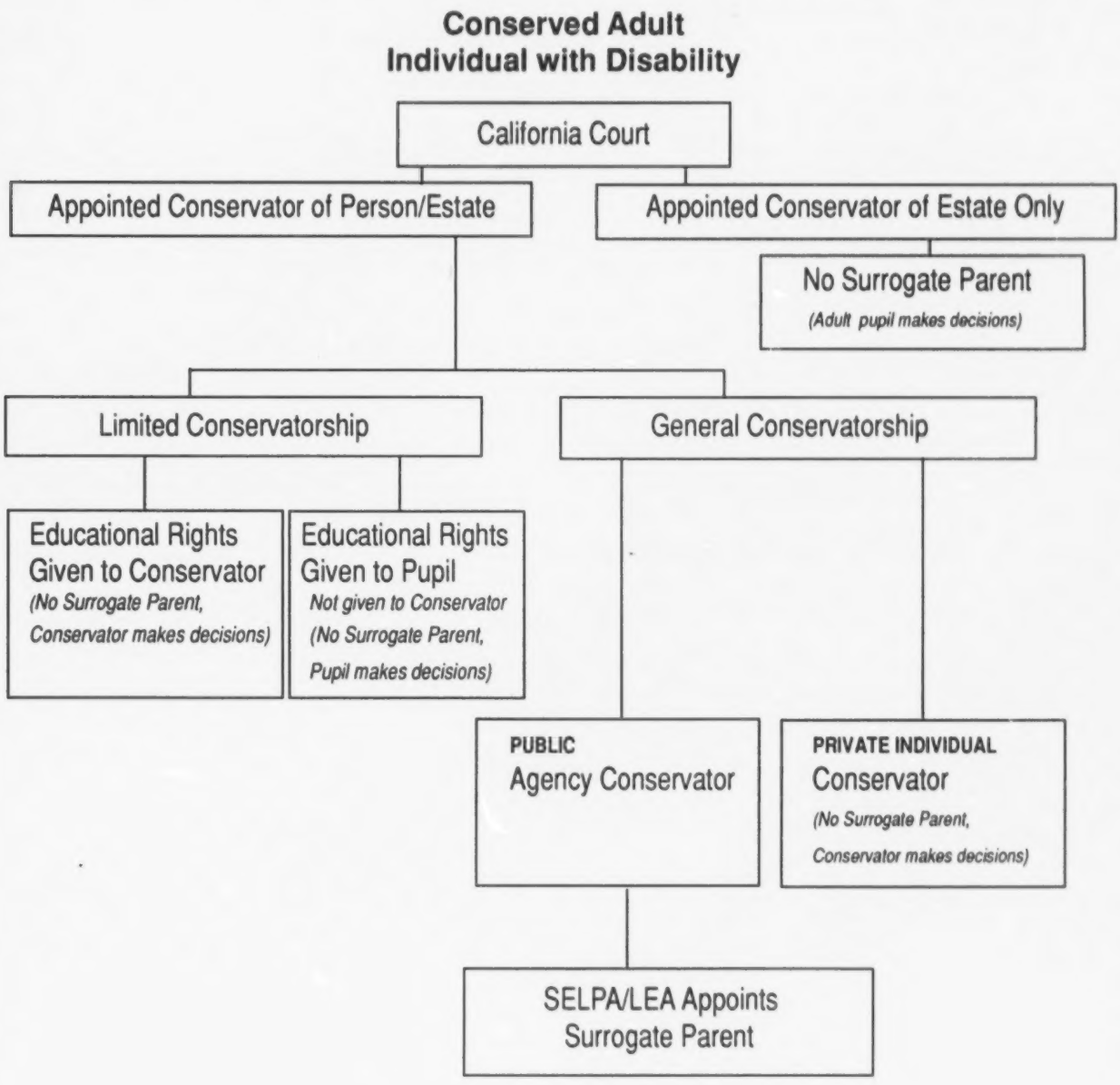
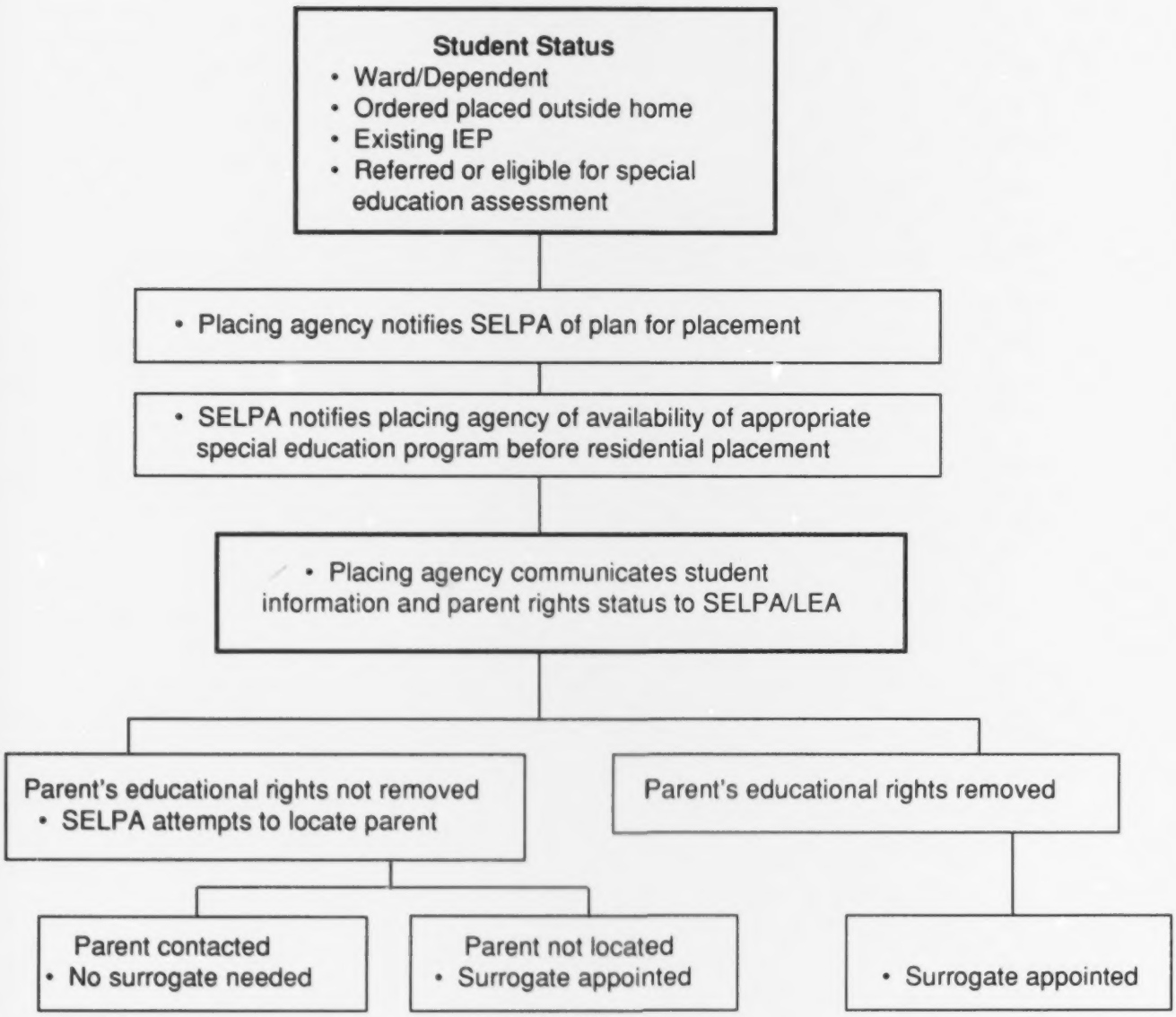
Susan Jo Fine, Director




Developed by Dirk van Tatenhove, Attorney at Law, in conjunction with the California Department of Education, Division of Special Education January 1991

## SURROGATE PARENT APPOINTMENT PROCESS


Student Status
• Ward/Dependent
• Ordered placed outside home
• Existing IEP
• Referred or eligible for special education assessment
• Placing agency notifies SELPA of plan for placement
• SELPA notifies placing agency of availability of appropriate special education program before residential placement
• Placing agency communicates student information and parent rights status to SELPA/LEA
Parent's educational rights not removed
• SELPA attempts to locate parent
Parent's educational rights removed
Parent contacted
• No surrogate needed
Parent not located
• Surrogate appointed
• Surrogate appointed

## Surrogate Parents in California Special Education: An Overview

For administrators of local education and other community agencies who are appointing surrogate parents under recent California legislation. This overview explains who needs a surrogate parent, who can be a surrogate parent, and describes an effective appointment process. Also discussed are responsibilities of local education agencies, placing agencies, service providers, and other agencies.